

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

VS.

BHUPINBER SINGH GILL

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CRIMINAL ACTION NO. C-08-693

**MEMORANDUM OPINION AND ORDER DENYING MOTION TO
REOPEN AND MOTION FOR A HEARING**


Defendant Gill has filed a motion titled “Motion for Reconsideration and Request for Hearing to Amend Detention Order Pursuant to 18 U.S.C. § 3145(b)” (D.E. 23). Though the motion refers to § 3145 which applies to review by a District Judge of a magistrate judge’s order of detention, counsel for defendant advised the case manager for undersigned United States Magistrate Judge that he was requesting a hearing before a magistrate judge. Accordingly, defendant’s motion will be treated as a motion to reopen the issue of detention pursuant to 18 U.S.C. § 3142(f)(2), which permits a judicial officer to reopen the issue of detention at any time if information exists which was unknown to the movant that the time of the hearing and which has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of the defendant and the safety of the community. Based upon this standard, the motion is DENIED.

Defendant has presented no new evidence or information not available at the time of the original hearing. Defendant was able to, but did not, provide a satisfactory reason for obtaining a Texas Commercial Driver’s License instead of a California license. This

information was available at the time of the detention hearing in this case. Likewise, defendant was able to, but did not, provide a satisfactory reason for why the bill of lading did not contain a phone number to call upon arrival at his destination.

Finally, even if the defendant were able to provide satisfactory answers to the above issues, the finding that detention is appropriate would not change. This is a presumption case, and the defendant is facing a ten-year minimum mandatory sentence. By his own admission he traveled to India less than one year ago, and still has family in India. His family owns significant property in India. Defendant has not rebutted the presumption of risk of flight and danger to the community. Moreover, defendant appears for his pretrial conference in one week. If he is convicted of the instant offense by plea or trial, defendant may petition the District Court for bond pending sentence.

ORDERED this 17th day of November, 2008.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE